United Nations A/57/403

General Assembly

Distr.: General
12 September 2002

Original: English

Fifty-seventh session
Item 160 of the provisional agenda*
Establishment of the International Criminal Court

Establishment of the International Criminal Court

Report of the Secretary-General**

Summary

Following the entry into force of the Rome Statute of the International Criminal Court on 1 July 2002, the Preparatory Commission of the International Criminal Court held its final session and transmitted its report to the Assembly of States Parties to the Rome Statute for consideration at its first meeting, held in September 2002. Arrangements were put in place in the Secretariat in order to receive voluntary contributions to defray the costs of the provision of secretariat assistance to the Assembly of States Parties by the United Nations Secretariat. In addition, the Assembly of States Parties subsequently decided to request that the Secretariat continue to carry out the secretariat functions of the Assembly in 2003, on a provisional basis. The Assembly also decided on its schedule of meetings for 2003.

* A/57/150.

** The present report was submitted after the established deadline to reflect the activities of the first session of the Assembly of States Parties to the Rome Statute, held from 3 to 10 September 2002.

02-58954 (E) 270902

I. Introduction

1. The present report has been prepared so as to recall the actions taken in 2002 relating to the establishment of the International Criminal Court, including the convening of the final session of the Preparatory Commission for the International Criminal Court and the holding of the first session of the Assembly of States Parties following the entry into force of the Rome Statute of the International Criminal Court.

2. The attention of Governments is drawn to several actions taken in relation to the provision of Secretariat assistance to the Assembly of States Parties in 2002, as well as to the decisions of the Assembly regarding the provisional arrangements for its secretariat in 2003.

II. Work of the Preparatory Commission for the International Criminal Court

3. The Preparatory Commission for the International Criminal Court was established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998. The Preparatory Commission held 10 sessions[1] during the period from 1999 to 2002, in accordance with General Assembly resolutions 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000 and 56/85 of 12 December 2001 with a view to carrying out its mandate of preparing proposals for practical arrangements for the establishment of the Court and its coming into operation. The sessions of the Preparatory Commission were open to representatives of States which had signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries, and other States which had been invited to participate in the Conference.

4. In 2002, the Preparatory Commission held its ninth and tenth sessions, from 8 to 19 April and 1 to 12 July, respectively. At its tenth, and final, session, the Preparatory Commission decided to transmit to the Assembly of States Parties its report,[2] containing, inter alia, the rules of procedure and evidence; the elements of crimes; a relationship agreement between the Court and the United Nations; the basic principles governing a headquarters agreement to be negotiated between the Court and the host country; the financial regulations and rules; an agreement on the privileges and immunities of the Court; a budget for the first financial year; the rules of procedure of the Assembly of States Parties; and a number of other draft resolutions and recommendations.

III. Entry into force of the Rome Statute

5. The necessary threshold for the entry into force of the Rome Statute of the International Criminal Court was reached on 11 April 2002. A treaty ceremony was held at United Nations Headquarters on that day, at which time the representatives of 10 Member States simultaneously deposited their respective instruments of ratification of the Rome Statute, bringing the number of instruments of ratification, acceptance, approval or accession deposited with the Secretary-General above the required level of 60.

6. The Rome Statute entered into force on 1 July 2002, in accordance with its article 126.

IV. Convening of the first session of the Assembly of States Parties

7. Following the entry into force of the Rome Statute, the first session of the Assembly of States Parties was convened at United Nations Headquarters, from 3 to 10 September 2002, in accordance with article 112, paragraph 1, of the Rome Statute, as well as General Assembly resolution 56/85 and the decision of the Preparatory Commission at its 41st meeting, on 8 July 2002.

8. At its 3rd meeting, on 9 September 2002, the Assembly of States Parties adopted all of the texts, including several international agreements, as well as several resolutions and decisions, referred to it by the Preparatory Commission.

V. Provision of Secretariat functions in 2002

9. In its resolution 56/85, the General Assembly requested the Secretary-General to make available to the Preparatory Commission secretariat services,

including the preparation of working documents if so requested by the Commission, to enable it to perform its functions.

10. Further, the Assembly, anticipating the entry into force of the Rome Statute during 2002, requested the Secretary-General to undertake the preparations necessary to convene, in accordance with article 112, paragraph 1, of the Rome Statute, the meeting of the Assembly of States Parties to be held at United Nations Headquarters upon the entry into force of the Statute in accordance with its article 126, and decided that expenses that might accrue to the United Nations as a result of the implementation of such a request, as well as expenses resulting from the provision of facilities and services for the meeting of the Assembly of States Parties and any consequent follow-up should be paid in advance to the Organization, for which an appropriate mechanism would be set up in the near future.

11. In March 2002, the Secretary-General circulated a note verbale to all Member States announcing that, in consultation with the Bureau of the Preparatory Commission, a trust fund had been established for the purpose of defraying the costs that accrue to the United Nations arising from the above-mentioned request.

VI. Provision of secretariat functions to the Assembly of States Parties in 2003

12. The Assembly of States Parties, at its 3rd meeting, on 9 September 2002, adopted the following resolution concerning the provisional arrangements for the secretariat of the Assembly of States Parties:

"*The Assembly of States Parties*,

"*Bearing in mind* article 112 of the Rome Statute of the International Criminal Court, regarding the Assembly of States Parties,

"*Taking note* of rules 6, 9, 10, 11, 14, 24, 28, 37, 41, 42, 48, 56, 62 and 95 of its rules of procedure, providing also specific functions for the secretariat of the Assembly of States Parties,

"*Desiring* to provide adequate secretariat services for the Assembly of States Parties,

"*Noting* that it is difficult to anticipate at this early stage all the functions of its secretariat,

"*Convinced* of the need to maintain continuity in the work of the Assembly of States Parties,

"1. *Decides* that arrangements shall be made for the Secretariat of the United Nations to continue to carry out the secretariat functions of the Assembly of States Parties on a provisional basis;

"2. *Decides also* that such arrangements shall be made on the basis of full reimbursement to the United Nations of such expenses that might accrue to the United Nations;

"3. *Decides further* to request the Secretary-General to continue carrying out the secretariat functions of the Assembly of States Parties on a provisional basis and to inform the Assembly of States Parties of the detailed arrangements thereon at its next session."

13. At the same meeting, the Assembly of States Parties decided that its first session would be resumed twice in 2003, that is, from 3 to 7 February 2003 and from 21 to 23 April 2003, and that it would hold its second session from 8 to 12 September 2003. It also decided that its Committee on Budget and Finance would meet from 4 to 8 August 2003. All of those meetings are to be held at United Nations Headquarters.

14. Provision for the envisaged schedule of meetings of the Assembly of States Parties in 2003 has been made in the budget for the first financial period of the Court, which was adopted by the Assembly at its 2nd meeting, on 3 September 2002. The cost estimates for the secretariat servicing functions of the Assembly of States Parties in 2003, as established in the budget for the first financial period, are based on the understanding that the above-mentioned meetings of the Assembly of States Parties will take place at United Nations Headquarters.

15. A communication from the President of the Assembly of States Parties has since been received by the Secretary-General, bringing to his attention the request of the Assembly that the United Nations Secretariat continue to provide the secretariat functions for the Assembly in 2003 on a provisional basis, and that the meetings of the Assembly in 2003 be held at United Nations Headquarters.

Notes

[1] For summaries of the proceedings of the Preparatory Commission at its first to tenth sessions, see: PCNICC/1999/L.3/Rev.1 (first session, 16 to 26 February 1999); PCNICC/1999/L.4/Rev.1/Corr.1 (second session, 26 July to 13 August 1999); PCNICC/1999/L.5/Rev.1 and Add.1-2 (first and second sessions, as well as third session, 29 November to 17 December 1999); PCNICC/2000/L.1/Rev.1 and Add.12 (fourth session, 13 to 31 March 2000); PCNICC/2000/L.3/Rev.1 (fifth session, 12 to 30 June 2000); PCNICC/2000/L.4/Rev.1 and Add. 1-4 and Add.3/Corr.1-2 (sixth session, 27 November to 8 December 2000); PCNICC/2001/L.1/Rev.1 and Add.1-3 (seventh session, 26 February to 9 March 2001); PCNICC/2001/L.3/Rev.1 and Add.1 (eighth session, 24 September to 5 October 2001); PCNICC/2002/L.1/Rev.1 and Add.1-2 (ninth session, 8 to 19 April 2002); and PCNICC/2002/L.4/Rev.1 (tenth session, 1 to 12 July 2002).

[2] PCNICC/2000/1 and Add.1-2, PCNICC/2001/1 and Add.1, Add.2 and Corr.1 and Add.3-4, PCNICC/2002/1 and Add 1-2 and PCNICC/2002/2/ and Add.1-3; see also PCNICC/2002/3.

United Nations A/57/404–S/2002/1029

General Assembly
Security Council

Distr.: General
13 September 2002
English
Original: Arabic

General Assembly
Fifty-seventh session
Item 36 of the provisional agenda*
The situation in the Middle East

Security Council
Fifty-seventh year

Letter dated 12 September 2002 from the Deputy Permanent Representative of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

Permanent Mission of Lebanon to the United Nations
New York

No. 2005/5/2002

New York, 12 September 2002

I have the honour to transmit to you a letter from His Excellency Mr. Mahmoud Hammoud, Minister for Foreign Affairs and Emigrants, concerning the most recent Israeli threats against Lebanon in connection with the drawing of water from the Hasbani and Wazzani rivers.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 36, and of the Security Council.

(*Signed*) Houssam **Diab**
Deputy Permanent Representative

* A/57/150.

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Annex to the letter dated 12 September 2002 from the Deputy Permanent Representative of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

New York, 12 September 2002

With regard to the threats addressed to Lebanon by Israel concerning the waters of the Hasbani and Wazzani rivers, dealt with in my earlier letter to you dated 23 March 2001 (a copy of which is attached hereto), I should like to mention the following:

Since the liberation of most of the South and the Western Bekaa, Israel has persistently threatened Lebanon with aggression. During the past few weeks it has stepped up those threats, alleging that Lebanon is attempting to divert the course of the Hasbani River. Lebanon wishes to clarify the facts of this matter:

The Wazzani River, one of the tributaries of the Hasbani, arises in Lebanese territory and feeds into the Hasbani inside Lebanese territory.

From the time it occupied southern Lebanon and the Western Bekaa, Israel set out to destroy installations and displace the population while preventing those remaining in the region from availing themselves of the waters of the Wazzani and Hasbani rivers. Since 1978, Israel has been intent on gaining possession of all the waters of the two rivers, or approximately 160 million cubic metres yearly.

Following the liberation of the South and the Western Bekaa, the Government of Lebanon embarked upon a plan to redevelop the South and to provide for the needs of the people in terms of drinking water and water for irrigation. The quantity of water of which Lebanon has been availing itself since liberation is estimated at approximately 7 million cubic metres yearly. This is a very small amount that falls short of the natural requirements of the region's population, based on international laws and customs and the provisions of the Convention on the Law of the Non-Navigational Uses of International Watercourses, which entitle Lebanon to ensure the social and economic needs of the population of the basin of the Hasbani and Wazzani rivers.

At present the Lebanese authorities are laying pipes to ensure the supply of water to the villages in the basin of the Hasbani and Wazzani rivers. The maximum quantity to be pumped will be 9 million cubic metres yearly, which is far below Lebanon's legitimate entitlement.

Every effort by Lebanon to provide for the vital needs of the populations of the liberated areas and villages has met with Israeli threats to wage war against Lebanon.

Today Lebanon finds itself once again faced with threats by Israel to wage war against it and deprive it of its lawful and natural rights to its water. Yet the water which Israel is attempting to seize originates in Lebanese territory and Lebanon is entitled to exploit it in accordance with its legitimate rights, international law and the vital needs of its population.

The statements of Israeli officials to the effect that Israel will wage war against Lebanon threatens international peace and security in the region. The responsibility for any consequences of such a situation falls fully on Israel, which is relentlessly

pushing towards an aggravation of the situation, ignoring Lebanon's definite desire to maintain peace and stability notwithstanding its constant demands for the liberation of the rest of its occupied territory. Lebanon appeals to the permanent members of the Security Council to make every effort to prevent Israel from carrying out its threats of waging war, which would have the direst consequences for the entire region.

I should like to mention that today, 12 September 2002, the purport of this letter was communicated to the ambassadors accredited in Lebanon of the States permanent members of the Security Council.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Mahmoud **Hammoud**
Minister for Foreign Affairs and Emigrants

Enclosure

Beirut, 23 March 2001

I should like to inform you of some disturbing developments that need to be brought to your attention.

While Lebanon is proceeding to rebuild the infrastructure destroyed by Israel during the 22 years of the occupation and to meet its responsibility to provide vital services to the villages and areas liberated from Israeli occupation, Israel is confronting us with further threats based on allegations and delusions in preparation for the launching of fresh attacks on Lebanese territory on the fabricated grounds that Lebanon has set about diverting the course of the Hasbani river and depriving Israel of its water.

The fact is that on 20 February 2001 the competent Lebanese authorities began to lay a pipe from the Wazzani spring in order to supply water to the villages of Wazzani and Maysat in response to a request from the inhabitants to resume the pumping of water to the villages that had been customary before the Israeli occupation. In its time, the latter had deliberately destroyed the Lebanese pipeline and pumps and had deprived the population of the use of the water for drinking, household use or irrigation.

After technicians were sent to make a physical inspection and assess the needs and the measures required to meet them, work began on the provision of water with the building of a hut near the spring for the installation of pumps, the laying of a 4-inch-diameter pipeline and the erection of electricity poles so that the pumps could be operated by electric power.

The technical teams continued their work of bringing water to Wazzani and Maysat in the midst of overflights by warplanes and helicopters in Lebanese airspace in flagrant violation of Lebanese sovereignty. This was accompanied by intense and distrustful monitoring by the Israeli military from beyond the border fence and by casual and brazen crossings of the Blue Line established by the United Nations. It should be noted that the authorities in question had notified the United Nations Interim Force in Lebanon (UNIFIL) of the nature of the project and had requested its help in providing protection for the workers as a precaution against Israeli provocations or hindrances.

While, in accordance with its legitimate rights and in order to meet the vital subsistence requirements of the inhabitants, Lebanon is endeavouring to bring water that rises in and flows through its own territory to two impoverished villages that have been deprived of it, Israel is waging an escalating campaign against it that is freighted with allegations that Lebanon will withhold the water of the Hasbani river from it by taking operational measures for this purpose, and it is threatening, through the official Israeli military and civil authorities, to launch a war against Lebanon and to direct a military strike against the Lebanese installations designed to bring water to the two villages.

In the light of the foregoing, Lebanon would like to state as follows:

1. The Israeli allegations are devoid of truth and have the objective of obstructing Lebanon's restoration to health and the rebuilding of the infrastructure destroyed by Israel during the years of its occupation of southern Lebanon. The

work is being carried out openly and with the knowledge of UNIFIL, as has been confirmed by Mr. Timur Göksel in a statement refuting the allegations made and denying that Lebanon was engaged in diverting the waters of the Hasbani river. He has stated that workers were installing a 4-inch-diameter pipe to convey water from the Wazzani spring to an impoverished village in need of it, and that it was not possible to speak of diverting a river by using such a small pipe. Mr. Göksel's statement reflects the reality of the situation in a manner that is not devoid of frank astonishment at the Israeli claims.

2. Lebanon affirms its right to its own water, and it rejects Israeli attempts to expropriate and exploit it.

3. It alerts the Secretariat to the Israeli threats to launch fresh attacks on its territory and installations, and it will hold Israel responsible for the consequences of any act of aggression against such installations. It calls upon you to take the necessary measures, on an urgent basis, to deter Israel from its threats and its violations of Lebanese sovereignty.

4. I take this opportunity to express the appreciation of the Lebanese Government for the impartial attitude adopted by the United Nations in southern Lebanon following the recent Israeli threats in connection with this matter and to thank the Organization for UNIFIL's continued fulfilment of its mandate and, in particular, for the humanitarian assistance and medical care it provides to the local inhabitants and for its active participation in the task of clearing the mines laid by Israel in the area.

I should be grateful if you would have this letter circulated as a document of the General Assembly and of the Security Council.

(*Signed*) Mahmoud **Hammoud**
Minister for Foreign Affairs and Emigrants